FILED

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SUPREME COURT OF THE UNITED STATES

DR, PEPI SCHAFLER

Petitioner

v

FAIRWAY PARK CONDOMINIUM ASSOCIATION and each individual member of the board INDIAN SPRINGS MAINTENANCE ASSOCIATION and each individual member of the board, NASON, YEAGER, GERSON, et al &GREGORY SCOTT

Respondents

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

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AMENDED APPENDIX TO PETITION

FOR WRIT OF CERTIORARI

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No: 02-13317 BB

DR. PEPI SCHAFLER
Plaintiff-Appellant

versus

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual memeber of the board ,
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board
NASON, YEAGER et al
Defendant -Apellees

On Appeal from the United States District Court for the
Southern District of Florida

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

Before: DUBINA, BLACK AND MARCUS, Circuit Judges

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no member of this panel nor other Judge in regular active service on the Courthaving requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the petition(s) for Rehearing En Banc are DENIED

Enterd for the Court : Filed May 6, 2003

ss Susan H. Black
United States Circuit Judge

[DO NOT PUBLISH]
Filed March 7, 2003

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No: 02-13317
Non-Argument Calendar

D.C. Docket No: 02-80127-CV-DTKH

DR. PEPI SCHAFLER
Plaintiff-Appellant

versus

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual member of the board
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board,
Nason Yeager, et al
Defendant-Appellees

Appeal from the United States District Court
for the Southern District of Florida

(March 7, 2003)

Before: DUBINA, BLACK, and MARCUS, Circuit Judges
Per Curiam:
Pepi Schafler , pro se, appeals the district court's dismissal of her suit for failure to state a claim under Fed.R.Civ.O.12(b)(6) and for lack of subject matter jurisdiction. Her complaint was styled as a "claim for intentional and negligent interference with property rights, trespass to chattel, abuse of authority , failure to meet fiduciary obligation, discrimination, exploitation, attempted extortion , libel , slander recklessness , misconduct and malpractice. " The complaint also asserts Appellees engaged in a civil conspiracy to interfere with her property rights and to extort money from her.

*Appellant argues for the first time on appeal that Appellees are liable under the doctrine of strict liability, under the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. #1996-1998 and the Fair Debt Collection Practices Act, 15 U.S.C. #1692 et seq. and for portraying her in a false light and sexually harassing her. Because Appellant did not raise these claims before the district court , we will not consider them on appeal .**_See Narye v Dean , 32 F 3rd 1521, (11th Cir , 1994)._ Appellant has not reasserted on appeal her claims for breach of fiduciary duty , discrimination , and negligent interference with property rights . Therefore we deem those claims abandoned. See _Rowe v Schreiber , 139 F 3rd 1381, n 1. (11th Cir 1998)_ We affirm without discussion the district court's dismissal of Appellant's claim for trespass to chattel , abuse of authority , exploitation , libel, slander , recklessness, misconduct , and malpractice. Appellant's complaint centers on the allegation that Appellees conspired to interfere with and did interfere with Appellant's contractual or business relationship with her prospective tenants. (1) Because this is a diversity suit we must look to state law. Generally "under Florida law, a cause of action for tortious interference does not exist against one who is himself a party to the business relationship allegedly interfered with ". _Genet Co v . Anheuser Bush Inc. 498 So 2nd , 683 (Fla Dist Ct of App 1986)_ ***

(1) The court notes : We construe Appellant's claim for intentional interference with real property as a claim for tortious interference with a business relationship. See _Tannenbaum v United States , 148 F 3rd 1262 (11th Cir 1998)_ .noting that pro se pleadings should be liberally construed.

* The alleged bias in the 11th Circuit against pro se litigants is highly visible in the first words of the opinion: Appellant's name and her identification as a pro se litigant. The Court of Appeals in this opinion has seriously distorted the substance of this claim and made it almost laughable. Rather disturbing and objectionable. The opinions stated by the court are largely those stated by Appelles and copied from their pleadings.
** The claim was dismissed before the opportunity to amend the other counts. F.R.C.P. Rule 8 requires notice pleading only. The United States Supreme Court has held in _Anton Swierkiewicz_ and other , that an evidentiary standard is not required in a notice pleading. Just a plain notice of claim.
*** This is a ridiculous application and citing by the Court of Appeals -whoever reads the pro se appeals- having copied the holding of this case from Appellee's pleadings. The case involves large businesses-one of the world's largest breweries, and applied it to Appellant 's attempt to lease the apartment he owns. This is frivolous and vapid.

The Appellee associations had a contractual right to approve or reject prospective tenants , see Appellant's Record excerpts , Vol II, Tab 3 at 14, and Appellant 's complaint so concedes * Because Fairway Park and the Indian Springs Maintenance Association were parties to the business relationship allegedly interfered with they cannot be held liable for tortious interference wth Appellant's business relationship. See*Genet Co , 498 So 2 nd at 684* (defendant could not be liable for tortious interference with Plaintiff's agreement, where such agreemen was specifically conditioned on defendant's approval).The district court properly dismissed Appellant's claim against the associations and their individual board members for tortious interference with a business relationship.**Furthermore "a tortious interference claim exists only against persons who are not parties to the contractual relationship." *Cox v CSX Intermodal ,Inc 732 So 2nd 1092 , (Fla Dist Ct App 1999)* Appellant admits that ("Defendants Nason , Yeager et al are hired legal counsel on behalf of the two associations and the member shareholders") Therefore the district court correctly dismissed Appellant's claim against Nason Yeager for tortious interference with a business relationship.** Appellant further asserts Appellees extorted money from her by requiring her to pay $844 in allegedly past due fees.*** Extortion is defined as

* This is completely misstated. The associations have the right of first refusal ; the word "approval "is used for lack of another more acutely descriptive. The right of first refusal approval in this context is included in the condominium documents as a tool of creating a certain homogeneity of populations, not unlawful property seizure. If the associations disapprove they must provide a substitute tenant within 30days. The 11 Court of Appeals did not mention that part of this rule, although included and provided.

** The 11 Cir. Court of Appeals had trivialized the issue the substance of these issues , while simultaneously comparing petitioner's standing as a real property owner of one apartment seeking to sublet ,to large multi state corporation with multiple corporate parties with standing. The court is comparing a 7 year old ones lemonade stand with the Coca cola Corp .It is obvious the court wanted to dismiss. The Court seized on a two word nexus business and tortious and used it to explain everything. The Indian Springs Maintenance Assoc and Fairway Park are property owners as members association in contractual servitude to the property owners. They are not a business or corporate entity.

*** The Court of Appeals focused on the $844 alleged past due fees. More trivializing.. This is analogous to someone being shot and murdered while eating a hamburger , and then focusing on the hamburger. There were no overdue fees, and besides the associations have never ever provided an accounting as they are required to do for a property owner to know whether they owe any money or not. The associations function much like organized crime. They control through terrorizing. Members never ever receive an accounting statement, or evidence of a debt. They are told what they must pay as debt. If they do not they get harassed.

obtaining property from someone else with his consent, but whose consent is brought about or induced by the wrongful use of actual or threatened force, violence, or fear."Fear" means a state of anxious concern alarm or apprehension of harm , and it includes fear of economic loss* as well as fear of physical violence "*United States v Vallejo, 297 F 3rd 1154 (11th Cir 2002).* Appellant's complaint does not allege facts sufficient to support a claim for extortion , and the district court properly dismissed her extortion claims.**
Finally , Appellant contends Appellees engaged is a civil conspiracy. Under Florida law, however "[a}n actionable conspiracy requires an underlying actionable tort or wrong" *Wright v Yurko , 446 So. 2nd 1162 (Fla Dist Ct App 1984).* Because the district court properly dismissed all causes of action that could support Appellant's claim for civil conspiracy, it likewise correctly dismissed the conspiracy claim. Because we conclude Appellant failed to state a claim upon which relief can be granted ***, we need not discuss whether her request for punitive damages properly brings the amount in controversy in her suit above the $75.000 amount required to confer diversity jurisdiction. See 28 U.S.C. 1332.

Affirmed.

* The bias by whoever prepared this decision is so evident, and the statements are so outrageously inappropriate : in noting that to sustain a claim for extortion there must be fear of economic loss. Didn't this reader think that Appellant feared losing the rental income ? Isn't that economic loss?

** Based on what was the dismissal proper? What would be sufficient?

***. Appellant did state a claim upon which relief could be granted. It was denied because of a biased district court, and the bias of the 11th Circuit Court of Appeal against pro se litigants and appellants.